pal case it was possible for the deceased to have known the fact stated, A.'s evidence would not be vitiated by that offered by B. *Jones* v. *State*, 52 Ark. 345, 12 S. W. 704.

FEDERAL COURTS — JURISDICTION BASED ON NATURE OF SUBJECT-MATTER — LACHES AS A FEDERAL QUESTION. — A state court granted an injunction against the defendants' use of a fraternal name under a federal charter, finding that it was an infringement of the plaintiff's use of the name under a similar charter, and that the plaintiff had not been guilty of laches. A writ of error was prosecuted to the United States Supreme Court on the ground that the evidence showed laches. *Held*, that the judgment be reversed. *Creswill* v. *Grand Lodge Knights of Pythias*, 32 Sup. Ct. 822.

The denial by a state court of the validity of an authority exercised under the United States clearly raises a federal question reviewable in the Supreme Court on writ of error. 1 U. S. COMP. STAT., 1901, § 709. The court in such cases should have the power to examine the evidence as well as the law, and reverse if the finding is clearly unsupported by the evidence. *Kansas City Southern Ry. Co.* v. *Albers Commission Co.*, 223 U. S. 573, 32 Sup. Ct. 316; *Stanley* v. *Schwalby*, 162 U. S. 255, 16 Sup. Ct. 754. *Contra*, *Dower* v. *Richards*, 151 U. S. 658, 14 Sup. Ct. 452. As the court in the principal case had strong convictions as to the insufficiency of the evidence on this point a reversal might be proper, since the state court's denial of laches — unlike the finding of laches — leaves the finding on the primary federal right open to review. *Neilson* v. *Lagow*, 7 How. (U. S.) 772. The court, however, rests its reversal solely on the point of laches. The question of laches, although involving the denial of a federal right, is not a federal question, and the finding of the state court should be final unless the evidence of laches is so intermingled with a federal question that the two cannot be considered separately. *Moran* v. *Horsky*, 178 U. S. 205, 20 Sup. Ct. 856; *Pierce* v. *Somerset Ry.*, 171 U. S. 641, 19 Sup. Ct. 64. The principal case does not seem to fall within the latter qualification.

GIFTS — GIFTS CAUSA MORTIS — WHETHER VALID AS AGAINST HUSBAND'S RIGHTS UNDER DISTRIBUTION STATUTE. — The defendant's wife made a gift *causa mortis* of certain personalty to the plaintiff. At his wife's death the defendant took possession of the property. By statute a husband was given a certain share in his wife's personalty at her death. *Held*, that the plaintiff may recover. *Vosburg* v. *Mallory*, 135 N. W. 577 (Ia.).

Statutes such as that in the principal case generally provide that a husband's right to his distributive share shall be protected, although the testatrix may have made other dispositions by will. *Ward* v. *Wolf*, 56 Ia. 465, 9 N. W. 348; *Brigham* v. *Maynard*, 9 Gray (Mass.) 81. But such statutes do not operate upon property alienated *inter vivos*. *Samson* v. *Samson*, 67 Ia. 253, 25 N. W. 233. It has been held, however, that the husband's rights prevail against gifts *causa mortis*. *Baker* v. *Smith*, 66 N. H. 422, 23 Atl. 82. Such a result depends upon the theory that gifts *causa mortis* are testamentary in nature, the title passing only on the death of the donor. *Hatcher* v. *Buford*, 60 Ark. 169, 29 S. W. 641. The better view, however, seems to be that inherently they are gifts, the title vesting at once in the donee, but defeasible by the donor. *Marshall* v. *Berry*, 13 Allen (Mass.) 43. They are subject to the rights of creditors only when the other assets of the donor are insufficient. *Seybold* v. *Grand Forks National Bank*, 5 N. D. 460, 67 N. W. 682. Revocation, the death of the donee, or the recovery of the donor are to be treated as conditions subsequent. *Basket* v. *Hassell*, 107 U. S. 602, 2 Sup. Ct. 415. Therefore, as there was no property in the testatrix at the time of her death, the statute in the principal case cannot apply. It may be regretted that so ready a means of evading the statute is allowed, but the difficulty appears to be in the narrowness of the statute itself.